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OFFICE OF PETITIONS

In re Application of	:	
Miller	:	DECISION
Application No. 09/242,072	:	ON PETITION
Filed: January 14, 2000	:	
Attorney Docket No. N/A	:	
For: APPARATUS FOR LIQUID PURIFICATION	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 12, 2004, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioners are advised that this is not a final agency decision.

This application became abandoned for failure to timely and properly reply to the final Office action, mailed March 13, 2002, which set an extendable three month period for reply.

On June 7, 2002, petitioner mailed an amendment after final in response to the March 13, 2002 final Office action. On June 25, 2002, the Office mailed an Advisory Action informing petitioner that the June 7, 2002 reply did **not** place the application in *prima facie* condition for allowance. Petitioner filed a second amendment after final on August 16, 2002. On August 23, 2002, the Office informed petitioner that the August 16, 2002 submission was late and that an extension of time would be required to make it timely filed. On September 10, 2002, petitioner requested a three month extension of time for filing the August 16, 2002 submission. On December 10, 2002, the Office mailed an Advisory Action informing petitioner that the August 16, 2002 submission did **not** place the application in *prima facie* condition for allowance.

Technology Director Jacqueline Stone has affirmed that the March 13, 2002 final Office action was justified.

The application became abandoned on September 14, 2002. A Notice of Abandonment was mailed on January 13, 2003. Petitioner's petition to revive, filed March 5, 2004, was dismissed on June 8, 2004 for failure to provide a proper reply.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application.;
- (2) the petition fee as set forth in 37 CFR 1.17(m);
- (3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
- (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy requirement (1) above.

Petitioner reiterates his assertion that the application was in condition for allowance after the June 7, 2002 reply was filed.

Petitioner is reminded that after a final action, there are only five possible replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that makes the case ready for issuance or (4) a RCE. To be a proper reply, an amendment after final must eliminate all of the Examiner's objections and rejections, and thus place the case in *prima facie* condition for allowance.

Petitioner's amendments after final failed to eliminate all of the Examiner's objections and rejections. The June 7, 2002 after final amendment did not place the application in *prima facie* condition for allowance, as stated in the June 25, 2002 Advisory Action. The August 16, 2002 after final amendment did not place the application in *prima facie* condition for allowance, as stated in the December 10, 2002 Advisory Action. There are no allowed claims. All of petitioner's amendments have been considered and found not to adequately address the examiner's objections and rejections.

Therefore, petitioner has NOT filed a proper reply to the March 13, 2002 final Office action. Petitioner is informed that the filing of amendments after final is not a right. Petitioner has already filed two lacking amendments after final. **Petitioner is strongly encouraged to contact the examiner of record to determine the most appropriate reply to the March 13, 2002 final**

Office action. The application remains abandoned.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
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By hand: U.S. Patent and Trademark Office
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By FAX: (703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.



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